

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-60100
Conference Calendar

FRANK RAMSEY, JR.,

Plaintiff-Appellant,

versus

CLEVELAND POLICE DEPARTMENT; OLLIE WHITE, City
Police Officer; DEBRA YAWN, City Police Officer;
GEOGE SERIO, City Police Officer; BOLIVAR COUNTY,
MISSISSIPPI SECOND JUDICIAL DISTRICT; LAURENCE V.
MELLEN, District Attorney,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 2:00-CV-237-B-B

December 12, 2001

Before HIGGINBOTHAM, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Frank Ramsey, Jr., Mississippi prisoner # 05553, appeals from the district court's dismissal of his civil rights suit as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B). Ramsey's complaint alleged: 1) that his state conviction for manslaughter was improper because of negligence on the part of the Cleveland, Mississippi, Police Department; 2) that the evidence at trial was insufficient; 3) that the prosecutor made improper remarks during

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

closing argument; and 4) that his sentence was improperly enhanced as a career offender. The district court properly determined that Ramsey's claims against the state prosecutor were barred by absolute immunity. See Boyd v. Biggers, 31 F.3d 279, 285 (5th Cir. 1994). Ramsey's remaining claims are barred by the doctrine of Heck v. Humphrey, 512 U.S. 477 (1994), and are not cognizable in this 42 U.S.C. § 1983 action.

This appeal is without arguable merit and thus frivolous. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. 5th Cir. R. 42.2. The district court's dismissal of Ramsey's complaint and this court's dismissal of the appeal as frivolous count as two strikes for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 385-87 (5th Cir. 1996). Ramsey is CAUTIONED that if he accumulates three strikes under 28 U.S.C. § 1915(g), he will not be able to proceed in forma pauperis in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

APPEAL DISMISSED; SANCTIONS WARNING ISSUED.